

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN DONALD L. HEDGES**, on January 20, 2003
at 8:14 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Donald L. Hedges, Chairman (R)
Sen. Royal Johnson, Vice Chairman (R)
Rep. Rosalie (Rosie) Buzzas (D)
Sen. John Esp (R)
Rep. Eve Franklin (D)
Rep. Dave Lewis (R)
Sen. Bea McCarthy (D)

Members Excused: None.

Members Absent: None.

Staff Present: Amy Carlson, OBPP
Jim Standaert, Legislative Branch
Diana Williams, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.
Tape counter notations refer to the material
immediately preceding.

Committee Business Summary:

Hearing & Date Posted: OPI - State Level Activities,

Executive Action: None

HEARING ON OPI - STATE LEVEL ACTIVITIES

CHAIRMAN HEDGES opened the hearing.

Jim Standaert, Legislative Fiscal Division, explained the bridge document (Exhibit 1). He explained that this sheet only shows General Fund, so it could give a distorted picture of the Governor's proposal. He also went through the negative and positive proposals on the second page of Exhibit 1.

EXHIBIT(jeh11a01)

{Tape: 1; Side: A; Approx. Time Counter: 1.6 - 8.6}

SEN. McCARTHY asked **Mr. Standaert** to explain the caption on the second page. He explained that the Governor is proposing more in State Special Fund that are not reflected on this sheet, because it only shows the General Fund information.

REP. LEWIS presented Exhibit 2, which is a composite of the past five years' spending from each educational agency as well as a five-year spreadsheet reflecting the historical funding of each agency. In addition, there is an OPI third-level General Fund expenditure list which was provided on 01/21/03, Exhibit 1. This exhibit was provided to the Committee as background information on looking at all the education agency's base budget.

EXHIBIT(jeh11a02)

{Tape: 1; Side: A; Approx. Time Counter: 8.6 - 12.4}

Linda McCulloch, Superintendent of Public Instruction, OPI, distributed her presentation which includes many charts and graphs (Exhibit 3), and her written testimony (Exhibit 4). She explained what OPI is and how it's funded as well as the associated budgets and OPI's priorities.

EXHIBIT(jeh11a03)

EXHIBIT(jeh11a04)

{Tape: 1; Side: A; Approx. Time Counter: 12.6 - 30}

{Tape: 1; Side: B; Approx. Time Counter: 1.7 - 22.1}

Nancy Coopersmith, Assistant Superintendent, Department of Education Services, OPI, went over the organizational chart in Exhibit 3, Page 2. She discussed the five divisions under the Department of Education and the programs they are involved in. Her written testimony is included as Exhibit 5.

EXHIBIT(jeh11a05)

{Tape: 1; Side: B; Approx. Time Counter: 22.1 - 30}

{Tape: 2; Side: A; Approx. Time Counter: 0.1 - 9.9}

Kathy Fabiano, Assistant Superintendent, Department of Operations, OPI, also referred to the organizational chart on Page 2 of Exhibit 3 to explain the Operations Department. She told the Committee that on Page 10 of Exhibit 3 there is an example of the OPI website. She explained the three divisions in the Operations Department: 1) information technology division; 2) distribution to schools division; and 3) fiscal services division. Her remarks are available as Exhibit 6.

EXHIBIT(jeh11a06)

{Tape: 2; Side: A; Approx. Time Counter: 10.5 - 15.7}

SEN. McCARTHY asked how much the Department of Operations saves by electronically transferring funds rather than writing actual checks. **Ms. Fabiano** replied that it costs \$8-12 per state warrant, and OPI pays the Department of Administration an additional \$3,300 a year for any warrant writing that must be done.

REP. LEWIS pointed out that the process could actually be costing more, due to the potential interest lost during the time it takes to clear those written warrants. **Ms. Fabiano** discussed the fact that the Department of Operations needs a cash flow so the Department is actually writing those warrants but not drawing the funds for three days. With an electronic payment, the Department can draw the payments the next day.

{Tape: 2; Side: A; Approx. Time Counter: 15.7 - 26.5}

Madalyn Quinlan, Chief of Staff, OPI, went over the lower third of the organizational chart on Page 2 of Exhibit 3. She continued with the overview of OPI, explaining the State Superintendent's Office, as well as the Legal Services Division and Educator Licensure Program. Her written testimony is included as Exhibit 7.

EXHIBIT(jeh11a07)

{Tape: 2; Side: A; Approx. Time Counter: 26.5 - 30}

{Tape: 2; Side: B; Approx. Time Counter: 0.1 - 8.9}

Supt. McCulloch performed a summary of the No Child Left Behind Act. She referred to the summary included as Page 8 of Exhibit 3. She provided her written testimony.

EXHIBIT(jeh11a08)

{Tape: 2; Side: B; Approx. Time Counter: 9.1 - 14.2}

Nancy Coopersmith also spoke about the No Child Left Behind program and gave more specific details on the money involved.

EXHIBIT(jeh11a09)

{Tape: 2; Side: B; Approx. Time Counter: 14.8 - 16.5}

REP. BUZZAS wanted to know the period of time that the \$100 million will be distributed. **Ms. Coopersmith** explained that the \$100 million was for the current year. **REP. BUZZAS** asked if that level of funding will continue in future years. **Ms. Coopersmith** said that it is unknown; Congress hasn't appropriated the funds yet.

Present Law Requests:

Kathy Fabiano presented DP30, federal grant award adjustments on Page E-9 of the Legislative Budget Analysis 2005 Biennium book.

SEN. McCARTHY asked if the request for 4.5 FTE were currently employed FTE, or additional. **Ms. Fabiano** said they were in addition to current staff. **SEN. McCARTHY** asked if the FTE would become State employees, and **Ms. Fabiano** affirmed that they would be classified positions.

EXHIBIT(jeh11a10)

{Tape: 2; Side: B; Approx. Time Counter: 16.5 - 22.8}

SEN. JOHNSON asked about the length of time for the grant requests of the FTEs. **Ms. Fabiano** replied that once the grants are authorized, they are for five years.

Ms. Fabiano continued with DP45, Advanced Driver Ed Enterprise - Removal from HB 2, on Page E-10 of Exhibit 10. She explained that this is a housekeeping measure. Also on Page E-10, she discussed DP7000, General adjustments, which include the adjustments made due to the special session. **Ms. Fabiano** said that these are the cuts and reductions measures OPI has taken to save cost, and will continue into the next biennium.

SEN. McCARTHY asked if applicants are aware that a potential position is federally-funded and could possibly be cut in a few years. **Ms. Fabiano** said if OPI knows that information, it would be disclosed, but that can't be projected.

{Tape: 2; Side: B; Approx. Time Counter: 22.8 - 26.9}

SEN. ESP asked about the chart on Page E-10 of Exhibit 10 regarding DP45. He stated that a reduction of \$111,000 is listed, but not from any of the funds listed. **Jim Standaert** responded that the payment is out of proprietary funds in HB 2, that do not show up in the chart.

{Tape: 2; Side: B; Approx. Time Counter: 26.9 - 30}

Amy Carlson explained briefly that the reports don't generally contain proprietary funds and OBPP is trying to get rid of the anomaly in this situation.

Madalyn Quinlan went over Page E-6 of Exhibit 10, an increase in the stipend amount for teachers. Page E-6 states that OPI estimates that 15 teachers will be eligible for the stipends of \$3,000 each, however more accurate estimates project that only eight teachers will attain these stipends. The present law base already includes provisions for the eight, so OPI is not requesting any in addition to the base amount.

SEN. McCARTHY asked if the program has spread from Great Falls to other areas of the state. **Ms. Quinlan** replied that it has moved around to many cities now.

{Tape: 3; Side: A; Approx. Time Counter: 0.1 - 3.9}

New Proposals:

Nancy Coopersmith referred to the last few pages in Exhibit 3, entitled, "Education Partners have a role in student achievement." These pages and charts reflect the testing assessments and goals of Montana's educational system. She also explained the Montana Comprehensive Assessment System (MontCAS) and how it bridges state and federal testing requirements. Also included is a time line of assessments to comply with President Bush's No Child Left Behind Act.

{Tape: 3; Side: A; Approx. Time Counter: 3.9 - 11.3}

SEN. JOHNSON asked if the funding change from \$200,000 to \$2 million only includes 2004 and 2005. **Nancy Coopersmith** replied

that it was a yearly figure, and affirmed that it only includes 2004 and 2005.

SEN. JOHNSON asked about 2006, 2007, and 2008 and if that also includes increases in funding due to the increase in the grades tested. **Ms. Coopersmith** said that it would be a very slight increase; OPI has set contracts for five years.

SEN. McCARTHY asked if this program will free up the money that districts have been using in the past to pay for the tests. **Ms. Coopersmith** replied that she doesn't believe the districts have been paying for the past few years. She said that many districts do pay for other tests they want to administer.

{Tape: 3; Side: A; Approx. Time Counter: 11.3 - 14.2}

REP. BUZZAS asked if school districts will continue with normal reference testing. **Ms. Coopersmith** replied they will until April 2004, when the criterion reference testing is ready. **REP. BUZZAS** then asked, if districts have a criterion-based test already, could they use that test. **Ms. Coopersmith** said the No Child Left Behind Act requires that schools all use the same standards-based assessment as purchased by the State.

SEN. McCARTHY commented that an objection to standardized tests is that the different vocabulary terms are often different in various areas of the country. She wondered if someone at OPI was reviewing that issue to keep that vocabulary local. **Ms. Coopersmith** said OPI has an assessment director, Judy Snow, who has spent a lot of time on those issues. She made the point that often the norm reference test is not culturally correct for children from rural or minority areas.

{Tape: 3; Side: A; Approx. Time Counter: 14.2 - 17.8}

CHAIRMAN HEDGES said districts have to measure by a "look-back" for each individual child to determine progress of each student. He doubts that there will be significant measurable progress, especially for the special education children. He asked if the schools then average progress to continue to qualify for federal funding. **Ms. Coopersmith** explained that the law requires them to disaggregate students by certain subgroups. The numbers go in together, but OPI will break up the total number and look at the goals by subgroup.

SEN. JOHNSON asked if the Center for Public Policy in Higher Education is a private or public organization. **Ms. Coopersmith** replied that she is not aware of that information.

SEN. McCARTHY asked about the inclusion regulations and any potential effect that it could have on testing. **Ms. Coopersmith** said that the federal law requires a 95% participation level in the State. The statistical dilemma is a huge issue when the instance arises that a number is so small that teachers are personally identifying a student as part of the reports. It is likely that the teacher will not report that student.

{Tape: 3; Side: A; Approx. Time Counter: 17.8 - 23.2}

New Proposals:

Nancy Coopersmith explained DP13, Statewide Student Assessment request, on Page E-5 of Exhibit 10. This funds a Riverside Publishing contract for the IOWA norm reference tests. She explained that this is an extension of the current and past contract. This will provide Grades 4, 8, and 11 with testing in five subject areas: reading, communication arts, mathematics, social studies, and science. She added that this proposal is in the Governor's Budget.

SEN. McCARTHY asked if the enrollment is down, why is the cost rising. **Ms. Coopersmith** said that declining enrollment isn't an indicator that costs are declining. A major cost is in the report that a school receives, and each school needs one, whether they have five students or 50.

Nancy Coopersmith continued with the next decision package, DP33, Federal Assessment Requirement request on Page E-12 of Exhibit 10. She explained that due to President Bush's federal act, the requirements have increased, at a greatly elevated cost. The State has entered into a compliance contract to provide a single statewide accountability system. If OPI had not entered that compliance agreement, they would not have received federal funding. This request is for funding as well as 5.0 additional FTE.

{Tape: 3; Side: A; Approx. Time Counter: 23.2 - 30}

SEN. ESP asked if OPI helped schools interpret the results of the testing in the past. **Nancy Coopersmith** affirmed they had, because it is important to understand and apply the results.

SEN. ESP asked how many FTE were used in the past to do that. **Ms. Coopersmith** responded that it was one FTE, Judy Snow, the assessment director, who is paid with general fund. OPI also has an assessment team who are paid with federal funds. The publishing contract also provides assistance to schools. **SEN. ESP** asked for further clarification on the exact number of FTE

involved. **Ms. Coopersmith** said that there are various people involved directly, as well as indirectly, so that is hard to determine.

SEN. ESP wondered why such an increase was necessary in funding the FTE additions. **Ms. Coopersmith** said that OPI is currently unable to even meet the needs of the students. The majority of the funds will be spent on the contract for the testing. The rest would be used to fill in what's already lacking to administer and interpret the programs. **SEN. ESP** questioned if there was any flexibility in the federal program allowing a different disbursement of funds. **Ms. Coopersmith** explained that those funds have to be used in the programs specified and could not be moved.

{Tape: 3; Side: B; Approx. Time Counter: 0.1 - 9}

SEN. McCARTHY explained that in accepting the federal money, OPI also accepts the guidelines, which are extremely tight. **Nancy Coopersmith** agreed and reiterated that assessment is important to help teachers, schools, and districts make sense of the information and how to apply it.

SEN. JOHNSON asked for clarification on the funding. **Ms. Coopersmith** explained that the request is to use the funds to get the contract, which is \$2.5 million. The other funds will be used to provide assistance and develop reports.

SEN. ESP asked if there was any way to grant some of the money to school districts to do the normal classroom-type assessments to help out the teachers. **Ms. Coopersmith** said it would be illegal to use those funds to pay another teacher. She said that OPI tries to use creative ways to get money to the schools, but these funds cannot pay another teacher's salary.

REP. BUZZAS added her comment regarding **SEN. ESP's** question to use the funds to cover the costs of current testing and she added that this money could only be used for new testing. **Nancy Coopersmith** agreed that the funds are to be used to develop new testing instruments. However, this could be used to pay for substitute teachers when the teachers are in a conference.

{Tape: 3; Side: B; Approx. Time Counter: 9 - 17.2}

Nancy Coopersmith explained the next request DP34, National Assessment of Educational Progress, on Page E-12 of Exhibit 10. She said that this is not a new test and is not a "norm" test, but an individual proficiency test done on a sample of the

students. This program does use federal funds. Ms. Coopersmith also addressed DP35, Advanced Placement Incentive, on Page E-12 of Exhibit 10.

SEN. McCARTHY asked if this could help with the cost of SAT/ACT tests also. **Nancy Coopersmith** said that school districts have to use the funds for advanced placement testing only.

Nancy Coopersmith continued with DP36, Character Education, on Page E-12 of Exhibit 10. This is a competitive grant under the Federal No Child Left Behind Act that OPI was awarded. The next package, DP39 is for Title 1, Part B, Reading First. It is found on Page E-12 of Exhibit 10. She ended with DP40, REI/Rural Low Income Schools request, on Page E-13, Exhibit 10.

{Tape: 3; Side: B; Approx. Time Counter: 17.2 - 22.3}

Ms. Coopersmith added that only 5% of funds can be used for administration, the rest will be distributed to schools.

SEN. McCARTHY asked about the definition of rural and low income. **Nancy Coopersmith** explained that it only serves schools with Census Local Codes of 6, 7, or 8 and a child poverty rate of at least 20% by the US Census Bureau. There is no enrollment requirement.

SEN. McCARTHY asked about the Indian Reservation schools. **Ms. Coopersmith** said it all depends on the census codes. **SEN. McCARTHY** asked if the school applies for that grant, or if OPI designates which school districts qualify. **Nancy Coopersmith** answered that OPI develops eligibility, but districts must apply first.

SEN. McCARTHY asked if OPI notifies districts that they qualify to encourage them to apply. **Ms. Coopersmith** added that OPI notified Malta that they could qualify, and when they still didn't apply, OPI called them.

REP. BUZZAS asked what school districts can do with the money. **Ms. Coopersmith** replied they may use the funds for Title 1 if they choose, but they may not build a gymnasium. Districts may also supplement Title 2, Technology programs, and the Safe and Drug-Free Schools program with the funds.

{Tape: 3; Side: B; Approx. Time Counter: 22.3 - 30}

Nancy Coopersmith continued with DP43, Title IV 21st Century Community Learning Centers, on Page E-13 of Exhibit 10. She also

explained DP44, Troops to Teachers, Page E-13, Exhibit 10. This is a program authorized under the No Child Left Behind Act so OPI will receive \$253,467 of federal funds. OPI will pass all if it on to Montana State University.

SEN. JOHNSON asked if the money was allocated to the system or to a particular campus. **Nancy Coopersmith** answered that it is a contract between OPI and MSU-Bozeman.

SEN. JOHNSON questioned if other universities might like to have the program and funds too. **Ms. Coopersmith** said that MSU-Bozeman is the only unit that has the program in place.

{Tape: 4; Side: A; Approx. Time Counter: 0.1 - 4.5}

Madalyn Quinlan started her part of the presentation with DP7020, Reduction to Balance the budget, Page E-13, Exhibit 10. These are the identified cuts in the event of a 10% budget reduction.

SEN. JOHNSON had a question on new FTEs listed on the chart on Page E-11. **Madalyn Quinlan** said that the additional FTEs were the same ones during the biennium, not additional. **SEN. MCCARTHY** asked about the 7.3 FTE, required personnel. **Ms. Quinlan** replied that it was part of the No Child Left Behind program.

CHAIRMAN HEDGES asked about the "duty switch" and what duties would be left undone if funding is moved from state to federal. **Ms. Quinlan** said that OPI would look to cover both state and federal duties and goals as best as they can.

{Tape: 4; Side: A; Approx. Time Counter: 4.5 - 8.4}

Nancy Coopersmith addressed Page E-5 (Exhibit 10), Indian Education for All.

REP. BUZZAS asked if there are administrative staff in place to cover this. **Ms. Coopersmith** replied that OPI does have staffing to provide the assistance, they just don't have the general fund operations budget available.

REP. BUZZAS asked if it was an unfunded mandate. **Ms. Coopersmith** affirmed that it was.

{Tape: 4; Side: A; Approx. Time Counter: 8.4 - 12}

REP. FRANKLIN asked if the Indian Education program funding was in the Governor's Budget or not. **Nancy Coopersmith** replied that it was not in the Budget.

Kathy Fabiano presented the proprietary funds P-142, but the Committee did not receive that page. This is not appropriated in HB 2 due to the classification as a proprietary fund. These funds are sometimes referred to as HB 576 funds. Her written testimony is included as Exhibit 11.

EXHIBIT(jeh11a11)

Rick Chiotti, Administrator, Division of Health Enhancement, referred to P-142 and P-144 regarding the Advanced Driver's Education program. Page 9 in Exhibit 3 contains the corrected figures. His written testimony is Exhibit 12.

EXHIBIT(jeh11a12)

{Tape: 4; Side: A; Approx. Time Counter: 12 - 21.6}

SEN. JOHNSON asked for clarification on the 7% versus 5% figures asked for with the No Child Left Behind fee. **Kathy Fabiano** clarified that the 5% figure was the limit on the total grant award that would stay at the state level for expenditure. Of the amount that stays at the state level, 17% would go towards that source. So it is 17% of that 5%.

SEN. JOHNSON asked how much money is in the indirect account. **Kathy Fabiano** asked if he means the fund balance. He agreed, and she responded that at the end of last year (fiscal 2002), the balance was \$68,918.

{Tape: 4; Side: A; Approx. Time Counter: 21.6 - 24.8}

Proponents' Testimony:

Steve Meloy, Executive Secretary, Board of Public Education, provided written testimony and urged support for OPI funding.

EXHIBIT(jeh11a13)

Bud Williams, School Superintendent of Kalispell, supports OPI funding increases and No Child Left Behind requests.

Bob Vogel, Montana School Boards Association (MTSBA), said that MTSBA works closely with OPI and strongly support their funding, along with the No Child Left Behind and other federal mandates.

Erick Berg, MEA/MFT, also stands in strong support of the OPI Budget. He stressed the need for future leadership and assessed that OPI has been the root of accountability. OPI needs to be a priority.

{Tape: 4; Side: A; Approx. Time Counter: 24.8 - 30}

Kris Goss, Governor's Office, Governor's Policy Advisor and Lt. Governor's Policy Advisor on Education, rose in support of the Governor's Budget for K-12 public education regarding the OPI agency Budget. OPI has taken budget cuts over the last few years and the executive budget specifically left enough money in the OPI fund so as not to interfere with their services to schools.

Steve Gettel, Montana School of the Deaf and Blind (MSDB), stated their support for OPI and presented his written testimony.

EXHIBIT(jeh11a14)

{Tape: 4; Side: B; Approx. Time Counter: 0 - 5.3}

Bruce Messinger, Helena Public Schools Superintendent, said that he supports the major initiatives with the federal program addition and the federal funds. The coordination of that information and testing services is important and a vital part of OPI. He asks that the Committee support the agency's requests.

{Tape: 4; Side: B; Approx. Time Counter: 5.3 - 8}

Questions from Committee Members and Responses:

SEN. ESP asked if the school system is providing a quality education for Montana kids at the present time. **Supt. McCulloch** replied that is true. **SEN. ESP** further questioned the legal staff and wondered if that was one attorney and many paralegals. **Supt. McCulloch** replied that for the legal staff, it was one attorney, one paralegal, and one assistant. However, the certification licensure division is also listed under the legal department.

SEN. ESP asked about the ability to address the service needed for transportation and redirect the resources. **Supt. McCulloch** said that there are certain laws that regulate the transportation to school, but she could look into the issue.

CHAIRMAN HEDGES asked about the legal staff and the hiring process. He asked if a background check is an OPI function or a local school district function. **Supt. McCulloch** directed that question to Jeff Weldon. **Jeff Weldon, OPI Chief Legal Counsel**, said that there are two requirements during the background check. One is that all new applicants be fingerprinted at the Department of Justice and OPI reviews those reports. The second is that the districts fingerprint substitute teachers as well.

{Tape: 4; Side: B; Approx. Time Counter: 8 - 15.1}

SEN. JOHNSON asked if there is a law that states how close a Class 3 child abuser can live to a school. **Mr. Weldon** replied that he is unaware of that certain requirement, but there is a listing of sexual predators available online.

SEN. JOHNSON said that his concern is how close an offender can live to the school when he released from prison. He urged Mr. Weldon to address that possibility. **SEN. McCARTHY** said that there are two superintendents at the meeting who might have some experience with that issue, but **Bud Williams** said he didn't have any experience in that area.

SEN. ESP wanted to know if the schools address tobacco prevention in their programs. **Nancy Coopersmith** said that they do.

{Tape: 4; Side: B; Approx. Time Counter: 15 - 18.7}

SEN. ESP stated that he voted against the initiative to direct funds to tobacco prevention funds because he said it would cost K-12 education and human services budgets. He said that his intent was not to threaten OPI, but an attempt to not take money away from them. **Supt. McCulloch** added that listening, learning, and compromising is very important.

SEN. ESP asked what Supt. McCulloch would change in the No Child Left Behind program to be more applicable to Montana. **Supt. McCulloch** said that the program is directed more toward large, inner-city schools instead of the rural conditions of Montana. The assessment portion is a potential problem also, due to the ratio of school kids to teachers and the few numbers. She also is concerned about the cost. Montana schools receive the minimum amount, due to the few number of students, but it costs the same or more to provide the same programs and research.

REP. BUZZAS asked for clarification on the tobacco prevention programs and where that funding comes from. **Nancy Coopersmith** replied that OPI uses the No Child Left Behind, Title IV, Safe and Drug-Free Schools money for that; no money comes from the general fund. **REP. BUZZAS** stated that she didn't see how that would put education funding in danger since it is federally funded.

CHAIRMAN HEDGES adjourned the meeting.

{Tape: 4; Side: B; Approx. Time Counter: 18.7 - 27.7}

ADJOURNMENT

Adjournment: 12:12 P.M.

REP. DONALD L. HEDGES, Chairman

DIANA WILLIAMS, Secretary

DH/DW

EXHIBIT (jeh11aad)